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THE RESPONSA OF THE BABYLONIAN GEONIM AS A SOURCE OF JEWISH HISTORY *

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II. THE POLITICAL STATUS OF THE JEWS.

AFTER having discussed the extent of the influence the Geonim had over the Jewries of the various countries of the diaspora, an attempt will be made in this chapter to describe the political status of the Jews. In the light of the material the Gaonic responsa furnish, we shall consider in particular the relation of the Jews to the secular authorities and to their non-Jewish neighbours, their attitude towards the non-Jewish courts, and finally their treatment of their slaves.

(a) It is generally assumed that with the advent of the Arabs to 'Irāk (637-43) the Jewish ecclesiastical authorities, the so-called Bêt-Din that existed in most of the Jewish communities of 'Irāk, and the members of which were appointed either by the Exilarch or by the Geonim, continued to have full autonomy and could act entirely in accordance with the Talmudic law. The Gaonic responsa, however, show that the Muslim conquerors encroached occasionally more or less upon the sphere of activity assigned to the Jewish courts or the Jewish communal leaders. The first innovation the Geonim had to make not long after the Arab conquest of 'Irāk was in all probability due to such an interference on the part of the Arab rulers. Sherira in his *Letter* (p. 35) states that the Geonim

* See vols. VII, 457-90, VIII, 339-66, IX, 139-79.

R. Raaba of Pumbedita and Huna of Sura (both held office after 660 C.E.) instituted that a woman, who defied her husband and was thus rendered liable to the charge of being a *מורדת* (in the Talmudic phrase), should be divorced at once. The Talmudic practice was to defer the divorce for twelve months in order that meanwhile a reconciliation might be brought about between husband and wife (see Ketubot 64 a). Sherira himself explains in a responsum that the Geonim were forced to make this innovation because they saw 'that the daughters of Israel went and attached themselves to non-Jews in order to obtain a divorce through them from their husbands. These had in some cases to grant the divorce under compulsion'.¹⁸¹ This statement probably means, as Weiss (*דר"ור*, IV, 8-9 and note 14) has pointed out, that the Muslim authorities could force the Jews to grant divorce in such cases, and in order to prevent such enforced divorces, which according to the Talmudic law are null and void (*נט מעושה*), the Geonim ordained that in the case of *מורדת* the husband should at once divorce his wife by his own free will and was also bound to pay the amount of the Ketubah. The objections of Rabbinowitz (Graetz, Heb. ed., III, 131) against this assumption cannot hold good. The same phrase *נתלה עצמו בנוים* occurs also in another responsum of Sherira where it must also mean the protection afforded by a Muslim court or by some influential Arabs to a Jew

¹⁸¹ כשראו שבנות ישראל הולכות ש"צ, 56 a, No. 15 : וניתלות לגוים ליטול מהן גיטין באונס מבעליהן ויש כותבין גיטין באונס ; כדי שלא : ח"ג, No. 89, the reason is : see also ג"ק, No. 91, by Sherira. In תצאנה בנות ישראל לתרבות רעה which amounts to the same. Cp. also Schechter's *Saadyana*, 147 (= *JQR.*, XIV, 515), ll. 1 ff. . . כל שכן בנשים . . . שנתקדשו שיאניסו המקדש בשלטון שיגרשה אישה וישנא וישאנה . . .

against the ruling of the Bêt-Din. The case (ש"ת, No. 182, see *Einleit.*, 21 note) deals with a Jew that committed some transgression on the Sabbath for which he was to be flogged, and the fear is expressed that he might escape and try to obtain the protection of the non-Jewish court or of some influential Arab (ויתלה עצמו ביד נוי, see also גמ"מ, No. 146, and ה"פ, No. 135). This decree about a 'defiant' wife (מורדת) which was promulgated soon after the conquest of Babylon by 'Omar probably applied to this country only. We have the evidence of Maimonides that it was not accepted by the majority of the Jews.¹⁸²

A question that very frequently occupied the Jewish communities as a whole was the assessment of taxation. Generally the whole community of a district was made responsible for the entire amount of taxes that was imposed upon it. After the conquest of 'Irāk and Syria by the Arabs under 'Omar, the Arab conqueror in organizing the new state fixed a poll-tax for all non-Muslims (جَزَاءَ), certain burdens in connexion with the quartering of Muhammedan soldiers,¹⁸³ and a graduated land tax (خَرَاجَ, see Aug. Müller, *ibid.*, I, 272). This organization of the state by 'Omar was probably adopted by the Arabs after their conquest of North Africa and Spain. As regards Babylon, Graetz assumes that the Exilarchs were responsible for the taxes which were collected from the Jews (V⁴, 131 and 435-6). But from the responsa it appears that the Arab authorities collected the taxes directly from

ולא פשטו אותם המנהגים ברוב ישראל: 4¹⁴, ה' אישות, יד החוקה ¹⁸³
ורבים וגדולים חולקים עליהם ברוב המקומות.

¹⁸³ Probably R. Natronai refers to this in a responsum תש"ר, II, 20, 1. 12: ומותר להוציא למלך מאכל בשבת ובחג מפני הסכנה based on Beṣah, 21 a. See also Aug. Müller, *ibid.*, 274.

the Jews. The Gaon R. Sheshna of Sura (before 1000 Sel. = 689 C.E.) writes in a responsum that 'if the ruler or the tax-collector sends to the community and enjoins the pronouncing of a ban in his interest, and it is impossible to disobey on account of the compulsion, this tax that was imposed by means of the ban is not binding. But if they impose an oath, the community should refuse to administer the oath to the person concerned'.¹⁸⁴ This responsum shows that the authorities availed themselves of the coercion practised by the Bêt-Din for their own purpose, and thus in order to obtain a true estimate of a man's taxing-power, they ordered the Jewish courts or the communal leaders to announce a ban against or impose an oath upon a Jew for this purpose. The Gaon to whom this responsum is assigned was one of the earliest Geonim whose sphere of influence probably did not extend beyond Babylon and Persia, and we may therefore assume that the responsum refers to the conditions that existed in these countries alone. The Gaon's opinion is that the enforced oath should not be administered by the communal leaders and that the ban, though announced, would be rendered null and void, in order to counteract the extortions of the authorities. The tax-collectors mentioned in this responsum were certainly non-Jews. Had they been Jews appointed by the Exilarch, or by the communal leaders,

¹⁸⁴ ושלמון ובעל מכס שמשגריין בקהל להחרים בשביל צרכיו וחפציו ואי אפשר שלא להחרים משום אונסא אותו מכס שהחרים אינו כלום ואין לחוש לו אבל שבותה שמישביע מלך או שלמון או בעל מכס אסור להשבע לו (ש"ח, No. 195; ד"פ, No. 121; חש"ר, I, 49, No. 13; ג"ו, No. 26, and ג"מ, No. 26). Cp. also ג"ו, No. 40. This R. Sheshna was certainly the Gaon and not the father of the Gaon 'Amram (856-74) of whose official capacity as a scholar to whom questions were addressed nothing is known (see also Weiss, *ד"ר*, 9, note 15).

to collect the taxes, the Gaon would not have decided against them.¹⁸⁵ The whole tone of the responsum shows that the authorities were extortionate in their coercion of the Jewish community. In the same responsum is also mentioned the case of a Jew that was executed, and his property confiscated. Thereupon the authorities enjoined the Jewish communal leaders to announce a ban against anybody that concealed some money of the criminal in order to preserve it for his heirs, instead of handing it over to the authorities. In the time of R. Naḥshon of Sura (874–82) we learn that the taxes and impositions weighed heavily upon the Jews in Babylon. On a question, that came probably from some community abroad, whether the scholars should be asked by the community to contribute their share to the amount of the taxes due to the government, the Gaon answers that ‘though the king and his councillors impose taxes without a limit and make the burden still heavier upon the community’, yet the scholars should not be taxed.¹⁸⁶ Probably the Gaon reflects here the deplorable state the Jews of Babylon must have been in, especially during the period of the decline of the ‘Abbasid dynasty after the death of Mutassim in 842 (see Aug. Müller, *ibid.*, I, 523 ff.).

In the communities outside Babylon, in Palestine, North Africa, Spain, and southern France, we learn from the responsa that fixed amounts were imposed upon whole communities, and the communal leaders had the task and

¹⁸⁵ Cp. גמ"מ, No. 10: when the community collected the taxes and one of the members declared that he possessed nothing, he was adjured.

¹⁸⁶ הכי חזינא שאנע"פ שמשליבין המלך ושריו ומיונות, ג"ה, No. 537: בלי חק ומדחיקין ומכבדין עול על הצבור אסור ליקח מן הרבנים . . . כלום.—About the great number of taxes that existed under the Abbasid caliphs, cp. Kremer, *l. c.*, I, 278, and II, 488 ff.

people used to avail themselves of such devices in order to escape the impositions of the governor. That such devices had to be used is sufficiently eloquent of the position of the Jews in those districts. The screw of taxation was made more and more tight, so that people were compelled to leave their places of residence. A similar case is reported in another responsum (תש"ר, II, 58, No. 7). Jews who had to flee from their town, settled in another place where they were taxed by the Jewish community. But now the members of their former community bring forward claims against them, because they had undertaken in common the responsibility for the taxes. In the responsum it is stated that the authorities would exact the amount assessed irrespective of the actual number of the members of the community.¹⁹⁰ In Palestine also, under the rule of the Egyptian dynasty of the Fātimids, the burden of taxation weighed heavily upon the Jews. In a letter to Ephraim b. Shemarya, head of the Palestinian synagogue of Fustât, the Jewish community of Jerusalem complain that they 'suffer the yoke of the non-Jews who put all burdens' upon them. Though there was a famine

כרי שלא תהא אשתו נתפשת תחתיו, ויש מבני אותה העיר שעושין כן . . . להבריה את עצמן מעונש השלמון. . . This responsum belongs to the group of responsa sent to Kairowan in 991 c. E. (ג"ה), Nos. 345-50, see p. 179, note 1). It is interesting to note that the authorities did not confiscate this man's estate on his departure from the town. Further, the document of divorce, גט, seems to have had legal recognition in the eyes of the authorities, and the wife was allowed to take possession of her former husband's estate in lieu of her dowry (כתובת), in precedence to the claims of the authorities.

שהנויים אנשים הם וכיון שברחו מקצתן מכבדין עול על הלל ישראל¹⁹⁰ שנותרו ונוטל מס כולן. This responsum is seemingly by R. Hai like the one preceding it. Müller, *Einleit.*, 34, note (last line) assigns it without any proof to R. Isaac the Tosafite.

in the country, the Jewish community had to find the usual amount of taxes imposed by the government, and had thus to appeal to their compatriots in Egypt for support.¹⁹¹

Several responsa deal with confiscation of money and property belonging to Jews, and with other kinds of interference on the part of the authorities. In some cases it may have been due to the punishment inflicted upon individual Jews that transgressed the law of the country (see ש"צ, 34b, No. 5 and 41b, No. 38 by Saadya; ג"ו, No. 3; ג"מ, Nos. 9 and 109; גמ"מ, No. 189). Some interesting points are contained in a list of headings of responsa quoted by Müller (*Einleit.*, 53, note) from a Parma MS. Non-Jews give evidence against Jewish young people about their indecent behaviour, and the governor appoints a Jewish official to collect the fines he imposed upon these young Jews, while granting this official a commission of ten per cent. Informing amongst Jews was an evil rampant in those times which often endangered the lives of many Jews while causing still further material loss. Accordingly the Bêt-Din and the communal leaders dealt very severely with informers. Anybody that suffered from denunciation could pronounce a ban against those that denounced him to the authorities (see ג"ה, No. 333, end, by R. Hai; גמ"מ,

¹⁹¹ Geniza Letter (published by Cowley, *JQR.*, XIX, pp. 107-8, and also by Wertheimer, גנוי ירושלים, II, 17): אחיך כת הרבנים היושבים: גנוי ירושלים, II, 17): בעיר הקודש הכת העלובה העצובה הכאובה אשר אנחנו סובלים עול הגוים ועומסים כל טורח . . . ולא נכתד מוכך יקירנו כי בשנה הזאת היו החונגים מעט במספר ואשר קבצוהו לא היה בו כדי העונש אשר עלינו בכל שנה והוצרכנו ללוות מה שנשאר ולא די לנו הענשים אשר אנו שוקלים בכל שנה עד אשר היכנו צורנו במכת הרעב לא נמצא דבר בל (בכל ר. ארץ פלשתים והעניים הרבים ואנו פוחדים מן המס . . .

No. 193, by R. Joseph Ibn Abitur, and No. 195, end).¹⁹² One of 'Omar's decrees was that a non-Muslim should

192 No indication is to be found in the Gaonic Responsa, as far as they are extant, that informers were sentenced to death by the Bêt-Din in conjunction with the communal leaders. The responsa of the contemporary Spanish scholars also show no trace of this penal procedure. It is therefore surprising to find this drastic treatment of informers quite general among the Jewish communities chiefly in Spain. The first authority mentioned as having inflicted capital punishment on an informer, is R. Joseph Ibn Migash of Lucena, the disciple of Alfasi (see R. Juda b. Asher in זכרון ושמענו שסקל ר"י הלוי בן מיגש למסור אחד באוליסנה: f. 55: יהודה נעילה (ביוהב"פ שחל להיות בשבת בשעת נעילה). Maimonides, writing in Egypt, also refers to this punishment as quite usual in the 'towns of the West' (בערי המערב), i.e. Spain and Morocco, which latter country contained then many Spanish Jews (יד החזקה, חובל ומזיק, VIII, 1). Highly important is the letter of Solomon b. Aderet concerning the case of an informer in Barcelona (published by Kaufmann, *JQR.*, VIII, 1896, pp. 228 ff., where he also discusses this question of Jewish informers in the Middle Ages on pp. 217-28). See further the important responsum of Asheri in ש"ות הרא"ש, XVII, 1. On the whole, the material available tends to show that chiefly in Spain informers paid the penalty of death for their denunciations. There the communities seem to have had the permission of the secular authorities for such a procedure. Altogether in Spain the communal leaders seem to have been invested with very great powers, amounting even to the right of inflicting capital punishment in some cases; a fact that greatly astonished Asheri when he came from Germany to settle in Toledo, as he writes in the important responsum in ש"ות הרא"ש, XVII, 8. Whether in the Gaonic period the Jewish communities anywhere in the diaspora, including even Spain, possessed such rights, is very doubtful. It is certainly surprising that in the numerous Gaonic responsa no mention is made of such formidable authority vested with the communal leaders. See further תשרי מהר"ם, ed. Bloch, p. 208, No. 137: מ"ש ר"ח: דמיני ומסורות אין הורגין אותם בידיים נ"ל דקוא שלא בשעת מסירה אבל בשעת מסירה מותר להורגן בידיים . . . בין בשעת מעשה ובין שלא בשעת מעשה מותר להסית את הגוי להורגו ויש מי שאוסר אחר מעשה להורגו . . . ומורי הר"י יעקב בן מורי הר"י יצחק דחה זאת הראיה This responsum deals with conditions in Germany, where it seems informers were removed with the assistance of non-Jews (cp. further, *ibid.*, p. 50, Nos. 313 and 317). המוסר ממונם, 182, מ"ב.

suffer capital punishment in the case of his having spoken disparagingly of Muhammed and his religion (see Aug. Müller, *ibid.*, I, 273). A member of the Exilarch's family, who was to succeed the well-known David b. Zakkai, was denounced in Nisibis for such an offence and suffered the penalty.¹⁹³ From a responsum we learn further that if a Jew was converted to Islam and then repented and returned to his former religion, he had to flee to another place where he would be unknown, else he forfeited his life.¹⁹⁴

On the whole it may be assumed that a Jew found some protection on the part of the authorities and Courts against robbery and oppression by non-Jews. This was more or less the case both in Muhammedan and Christian countries. The responsa supply proofs for this assumption. Thus we read in a responsum of R. Şemaḥ (probably of Pumbedita, 872-90) about a Jew that traded in Egyptian towns, and while attempting to ford a river was drowned. When the relatives searched for the body, the non-Jews living by the side of the river gave evidence that they had seen the body floating but they did not pick it up for fear

של ישראל למלכות בפרהסיא והתרו בו הוקנים פעמים הרבה ולא חור
אלא מעיו ומוסר ומצטער לקהל ויש בידינו להרגו מהו מותר . . . אי
לא? תשובה על הריגתו אינו חולק דמותר להורגו בו בבל מה שנוכל . . .
לא, אבל על דם הריגתו אין מי שמלמד עליו זכות לכן מותר להרגו
is very likely not by a Babylonian Gaon but by a Spanish scholar.

ולא נמצא באותן : (Neub., II, 82-3) Report of Nathan the Babylonian
הימים מי שהיה ראוי להיות ר"ג אלא איש אחד שהיה מבני הימין שהיה
בנציבין ולא הספיקו למנותו עד שאירע לו דבר שנתקוטט עם גוי אחד
בשוק והעידו עליו שקלל את הפסול ונהרג.

. . . ואין : (Sura, 832-43 c. E., 26 b, No. 28, ש"צ)¹⁹⁴
מחייבין אותו לחזור למקום שמבירין אותו שהכל יודעין שאם חזר לשם
הורגין אותו . . .

of the governor.¹⁹⁵ Probably they were afraid lest the authorities would accuse them of having murdered this Jew. As regards a Christian country, we see that R. Meshullam in גמ"ט, No. 188, decided in a case where non-Jews forcibly deprived Jews of their estates, fields, and vineyards, and afterwards other Jews took over from these robbers their spoil, that since there were non-Jewish courts and authorities with whom the plundered Jews could have lodged their complaints, they had relinquished their right of ownership by not taking legal proceedings and allowing other Jews to recover their property from the robbers.¹⁹⁶ But frequently in disturbed times the authorities were powerless or callous about giving protection to Jews against thefts and robberies. Two responsa supply us with highly interesting material. Correspondents from probably some North African community write to Sherira (ש"צ, 32a, No. 20) concerning the case of a Jew that lost something or other, or was robbed by non-Jews, and afterwards another Jew bought back the stolen goods from these non-Jews, of course much below their value. Now the owner claims back his goods and intends paying back the other man's outlay. In the long argument which the owner of the stolen or plundered goods uses, three characteristic alternatives are enumerated as to how a Jew of those times could make good his loss. Either he finds out the culprits and brings them before the governor or the non-Jewish courts. Or he strikes a bargain with the

אבל היינו מתיראין להעלותו מן הנהר לקוברו מאונס : ח"ג, No. 27.¹⁹⁵ השלטון.

. . . הכא נמי ביון דאיכא אנריאות וערכאות של גוים ולא קביל¹⁹⁶. אחולי אחיל גביה ונתייבש מהן . . . Cp. also the responsum of Elhanan b. Hushiel (above, IX, 171 ff.).

brigands to return him at least a part of his belongings. It is stated in the responsum that other Jews had to do likewise. The third alternative would be to parley with the elders and influential people amongst these brigands and persuade them by bribes to recover the stolen goods. Though there were prohibitions by the governors against stealing and robbing as well as against buying such goods, it seems that this 'trade' flourished considerably. The Jewish communities, long before the time of this responsum, had to make an institution that the owner of the lost, stolen, or robbed property should be entitled to recover it from the Jewish buyer after paying back his expenses. This institution was common to all communities in that district, which shows that robberies and thefts must have been of very frequent occurrence.¹⁹⁷ From the answer of the Gaon we gather that this institution was unknown in Babylon. Accordingly the responsum refers to the conditions outside 'Irāk, probably in some North African district. In the other responsum in ג"ק, No. 93 (perhaps by R. Meshullam, see Müller, *Einleit.*, 25, note) we find Jewish business-men

ועבשו אתה מבקש לשנות את מנהגינו והלא רוב הקהלות כולם¹⁹⁷
 אינם רוצים לשנות את מנהגם בשביל שהלסטין והגנבים מצויין במקומינו
 בכל יום ויום בין בדרכים בין במדינות. ובשביל זה נהגו אבותינו כן כדי
 שלא יאבד ממנום ויבואו אחרים ויטלו ממון חביריהם ובאין לידי מריבות
 ספינה שטבעה בים והצילו מן הסחורה : ג"מ, No. 42.—See also ג"מ, No. 42.—ולירי תקלה
 היא גוים או שירה שבאו עליה ליסטין מזוינים והיו בהם משאות וסחורות
 של ישראל ומכרום אותן הגוים לאותן הסחורות לישראל אחרים והכירום
 הבעלים בידם יש מן הדין לתת הבעלים ללוקח הדמים שנתן וקח ענייני
 ? לא. This responsum which is assigned in Pardes, end, to Rashi
 (cp. Müller, *Einleit.*, 11, note) is quoted in שב"ה, II, § 148, fol. 167 a
 [Cat. Montefiore Library, 33, No. 128] as תשובות רבינו האיי גאון. For the
 last reference I am indebted to Dr. Büchler.

taking the law into their own hands and paying back in the same coin to non-Jewish traders who constantly spoliated and harrassed them. 'A Jew said to a co-religionist, The people of the town N. have captured our city and have robbed us. Now the traders of that city usually go to the town, wherein you reside, for business purposes. If you can spoliates them by the authority of the rulers of your town, do it and let me have the spoil. But the other Jew answered, Were I able to make these traders pay the penalty, I should do it myself, because I have also lost a great deal in their town. At length it happened that once these traders came with their goods to the town of the second Jew, and he, risking his life, fleeced them after bribing the authorities of his town.'¹⁹⁸ The Jew seeing that no redress was to be obtained from the authorities, especially when towns were on the warpath against each other, had to risk his life and procure retribution for himself.

Several responsa tell us of towns sacked wherein Jews lived and also of cases of exile, either of whole communities or of individual Jews. Unfortunately only a few of these responsa can be adequately identified. R. Meshullam must refer to some upheaval in Lucca and the surrounding places when he writes at the beginning of his responsum (ק"ג, No. 61), 'May God in his great mercy relieve us in distress and put an end to the upheavals among us, our

ועוד ישראל שאמר לחבירו אנשי עיר פלוני כבשו את עירנו ושללנו,¹⁹⁸ והתגדין של אותה העיר הולכין לסחורה לעירך. אם תוכל לשלול אותם בכח שרי עירך טול מהם ותן לי. ואמר לו אותו ישראל אם הייתי יכול לשוללן הייתי שולל אותם לעצמי שגם אני הפסדתי שם כמה ממון. וכשהלכו שם תגדי אותה המדינה שם אותו יהודי נפשו בכפו ושללם בחזקת הגויים ששיחרם בממון. . .

brethren and the children of our congregations.¹⁹⁹ Above (VII, 484) we had the case of the town of Nefusa that was sacked and burned by the enemy. Another responsum tells us of an Arabic commander of an army who entered a town and captured many women, Jewish and non-Jewish. These captives had afterwards to be ransomed (גמ"מ, No. 47, see Müller, note 1).²⁰⁰ Another responsum (ג"פ, No. 51, probably by R. Meshullam, see *Einleit.*, 25, note) tells us further of a town that was sacked and all the inhabitants were led away as captives, with the exception of one Jew who escaped. From the responsum it appears that this Jewish community was not long after reorganized. In גמ"מ, No. 153 (probably by some French or Italian scholar, see Müller, note 1) we read of the exile of Jews from a whole district. Before the exile a Bêt-Din existed there, and thus there must have been an organized Jewish community in that town. The estates of the exiled Jews were not confiscated, and from the lawsuit it appears that the children of these exiles returned to their former place of residence and could take possession of these estates. Perhaps this responsum refers to the banishment of the Jews of Limoges in 1010 C.E. (see Gr. V⁴, 380), where the bishop of the town had Christianity preached to the Jews for a whole month, and when this was of no avail, had them exiled. We learn further of Jews of Tlemsen that were exiled to Ashir but their property was not confiscated

והוא ברחמיו הרבים ירחיב לנו בצר ויכלה התשואות ממנו ומאחיו¹⁹⁹ ומבני קהילתו. See above, VII, 487.

²⁰⁰ Asheri, *Responsa*, XXXII, 5, quotes this responsum as follows: מצאתי בס' אור זרוע כתב יד ה"ר שמואל הלוי מוירכשא בס' בשר על גבי נהלים תשוב' רב פלטוי וז"ל הנאון, לגיון הגמון בא לעיר ושבה נשים הרבה מגויות ויהודי' כהנת ביניה' וכו'. Accordingly only one Jewess was among the captives. The same reading is often found in the *Responsa* of R. Moses Alashkar, no. 95 (ed. Sabionetta, 1553, fol. 151 b).

Sitzungsberichte der Wiener Akademie der Wissenschaften, vol. 163). But on the whole the Jew's life among his non-Jewish neighbours must have been precarious and exposed to dangers. We find the Geonim adopting the maxim, as found in the Talmud, that 'a non-Jew generally is an extortioner' (גמור"מ, סתם גוי אנסא הוא) No. 101, by R. 'Amram; ג"ה, No. 242, by Sherira or Hai to the Ḳairowan Jews). Characteristic is the statement by R. Natronai of Sura, 853-6 C.E., in a responsum, to the effect that 'generally if non-Jews get hold of a Jew's money they have no pity'.²⁰¹ It must have been sad experience only that made the spiritual leaders of Jewry view the non-Jew in such a light. Thus it is only natural that the Jews disliked having non-Jews as their nearest neighbours, for fear of violence. Jews preferred to live by themselves in special quarters. This tendency helped to erect the Ghetti which later on, in the times of persecutions, were made obligatory on the Jews. The Talmudic law was that if a Jew sold his field or house to a non-Jew, his Jewish neighbours could force this Jew to undertake the responsibility for any harm their new non-Jewish neighbour might do them. This law we find in full practice in the Gaonic period as several responsa show (cp. ש"צ, 33 a, Nos. 21 and 22 (cp. ג"מ, No. 142), probably by Sherira; גמור"מ, No. 19, by R. Ṣemaḥ to Ḳairowan; גמור"מ, No. 158, anonymous: a whole quarter inhabited by Jews). Yet some responsa tell us of Jews living promiscuously with non-Jews and knowing the affairs of each other (see גמור"מ, No. 95). A responsum mentions that all the inhabitants of a town, including the Jews, were dressed alike as soldiers (גמור"מ, No. 69). Another

²⁰¹ Pardes 24 c: כיון דאמר סתם גוי אנס הוא ומזון של ישראל כיון: שגפל ביד אומות העולם אין להם חנינה (cp. B. ḳamma 117 a).

responsum tells us of a case of a Reader (חזן) who was immoral, and the non-Jews were blaming the Jews for retaining such a man as their reader in the synagogue (נמו"מ, No. 17, probably by R. Joseph Ibn Abitur; see also above, p. 128). We find further cases of Jews who in trying to exact monetary claims from co-religionists by violence would hire non-Jews and instruct them to waylay their victims and extort whatever they demanded (נמו"מ, No. 22, by Saadya; ג"ה, No. 39, to Tlemsen, see *Einleit.*, 39, note).²⁰² All these disconnected details scattered here and there in the responsa give us some glimpse of the mutual relations between Jew and non-Jew in these times.

(c) A point of much interest is the attitude of the Jews of the Gaonic period towards the non-Jewish courts. It is only natural that a non-Jew when having a claim against a Jew would summon him before the non-Jewish court. A gentile generally distrusted the Bêt-Din (see ג"ה, No. 324, by R. Hai to Ḳabes; ג"ל, No. 40, by R. Hai; נמו"מ, No. 153; No. 204 by Ḥanok b. Moses). Likewise a Jew had to summon a non-Jew before the secular courts. The Bêt-Din had certainly no power of coercion over a non-Jew (see, e.g. נמו"מ, No. 102 by Sar Shalom of Sura, 849-53 C.E.; Nos. 201 and 204). But as regards disputes that arose between Jew and Jew, the Geonim as well as the communal leaders strongly disliked any attempt to bring these disputes for settlement before the non-Jewish courts instead of the Jewish ecclesiastical court, the so-called Bêt-Din. There were many affairs that could not be divulged before courts frequently hostile. The screw of

²⁰² Müller, *Einleit.*, 53, note, quotes also a responsum from a Parma manuscript: יהודי שזימן גוים חוץ לעיר לתפוש ישראל חברו והוציאו עליהם במענה.

taxation and impositions would have been made tighter, if the whole extent of business carried on by Jews would have become known through such monetary lawsuits brought before the courts. Further, for fear of non-Jewish competition, the Jew found it inadvisable to reveal the particulars of his trade. We find the Christian ecclesiastical authorities in Babylon of the same period exhibiting the same dislike of seeing Christians bring their lawsuits before Muslim courts. In the Judicial Decisions of the Catholicos Mar Timotheos (about 805) as well as those of the Catholicos Jesubarum (820-24) Christians are enjoined to bring their disputes exclusively before Christian courts.²⁰³ The Geonim in opposing Jewish lawsuits being brought before the non-Jewish courts followed the Talmudic precepts. Already R. Tarfon (end of first century, C. E.) was against attending non-Jewish courts (see Gittin 88 b, *v. l.* R. Meir) ותניא היה ר' טרפון אומר כ"מ שאתה מוצא אנוריאות (של נכרים אע"פ שדיניהם כדיני ישראל אי אתה רשאי להיוקק להם). In a responsum (quoted by Müller, *Einleit.*, 54, note 4, end, from a Parma MS.) the Gaon declares that if a Jew hands over a co-religionist to a non-Jewish court, even in monetary affairs, he is regarded as an informer (מסור).²⁰⁴

On the whole Jews acted according to the injunctions of their spiritual leaders and tried to settle all their disputes before the Jewish courts. Thus in the case of the stolen goods (above, pp. 131-32) we find the claimant arguing to

²⁰³ See Sachau, *Syrische Rechtsbücher*, vol. II, Berlin, 1908, p. 56, ll. 13-14: **סעלכסל אַנפֿי חבֿי מִבֿי מִבֿי מִבֿי חבֿלָא ?** ; **וְעַל סעלכסל ?** ; so Mar Timotheos ; cp. further, §§ 12-13 (pp. 66-8), and Jesubarnum, § 115 (pp. 168-9). See also Aptowitz, *l. c.*, 46 ff.

²⁰⁴ **מִי שְׂמוֹסר אֶת חֲבִירוֹ לְדִין נֹכְרִי נִקְרָא מִסּוֹר נִמּוֹר. אִם עַל עֵסְקִי** **מִי שְׂמוֹסר אֶת חֲבִירוֹ לְדִין נֹכְרִי נִקְרָא מִסּוֹר עַל עֵסְקִי נִפְשׁוֹת לֹא כ"ש** **מִמּוֹן נִקְרָא מִסּוֹר עַל עֵסְקִי נִפְשׁוֹת לֹא כ"ש**. See also ג"ה, No. 491, by Alfasi.

the defendant that because he must not summon him before a non-Jewish court he is worse off than if non-Jews had bought the stolen goods.²⁰⁵ Yet the responsa mention several cases of Jews seeking redress against their co-religionists at non-Jewish courts. A Genizah Fragment of the year 1016 (published by Poznański, *RÉF.*, XLVIII, 171) tells us of a Jew, 'Amrūn b. Elijah of Sicily, who had Ephraim b. Shemaryah arrested by the Muslim court-officials in Fustāt because the latter did not want to appear before a Muslim court to answer on the former's monetary claims. The arrested Jew justifies himself before the Muslim Judge that as Jews they had a court of their own for settling their disputes.²⁰⁶ In a responsum R. Moses b. Ḥanok (ש"צ, 30 a, No. 9) decides in the case of a Jew who had his co-religionist arrested that he should pay all expenses which his co-religionist incurred through his imprisonment (see also גמ"מ, No. 210). Since Jews frequently brought their lawsuits before non-Jewish courts, repeated injunctions had to be made by the spiritual leaders of Jewry against this practice. In a Cambridge Genizah Fragment (published by Dr. Marmorstein, *Monatsschrift*, 1906, 599) we read of an institution in a community that any Jew that brings his lawsuit before a non-Jewish court

... הרי הגוים אומרים שכבר אמרו לנו אותן הנגבין או אותן שמצאו את האברה או הלסטין לקנות אותה פרקמטיא מהם, ולא רצינו שכבר נתברר לנו שאינה שלהן מפני שאסור בדיניהן ונתפרשו. ויש מהן שאמרו לא רצינו לקנותה שלא יבואו בעלים ויכירו אותה בדינו, או יודע להן ותובעין אותנו בדין לפני המלך או השופט ולקחין אותה ממנו ונפסיד את ממוננו ונהיה כאותן הנגבים לפני הבריות. ונמצאת אתה עלי עכשיו יותר מן הגוים שאלו היה בידן הייתי תובע אותן עכשיו כשהוא בידך איני יכול לתבוע אותך אצל הגוים.

²⁰⁵ יهودים אנהנו ויש . . . ים עד שיתועדו ויראו בעסקינו (II. 17-18).

should pay a fine.²⁰⁷ In an undated fragment from Fustât (in the possession of Mr. E. N. Adler, M.A., London) we find the Nagid enjoining that no Jew should go to a non-Jewish court before bringing his case before the Jewish court of Cairo.²⁰⁸

The question often arose whether deeds of property or transaction drawn up in non-Jewish courts possessed legal value in Jewish courts. The Geonim were frequently asked to legalize such documents (see ג"ה, No. 82; גמ"מ, Nos. 94 and 199). Some responsa by Spanish scholars as well as by Hai, throw interesting light on the way the Muslim courts administered justice in Spain and Babylon respectively. In the former country the Muslim courts seem to have been held in great disrepute by the Jews at the end of the tenth and the beginning of the eleventh centuries. R. Moses b. Hanok of Cordova, in dealing with the case of a Jew who was found guilty by the Arab authorities on the charge of murder and had his property confiscated, writes that 'their justice is no justice even when Muslims only are concerned, how much less when Jews are concerned. They also rely on witnesses that are false'.²⁰⁹ The Rabbi criticizes the too ready acceptance of witnesses by these courts without first ascertaining their veracity. The

ושבח שעל ידו נמחה המגלה של התקנה שלקחו בקניין בחרם ובמנין
כל הקהל שכל מי שיעמוד עלי ועל בי"ד ישראל אחר (?) בערכאות של
גוים שיתן דינר כסף (1. 23).

ולא יכרך לאומות העולם ואימן תעדי וכרך לאומות העולם קבל
... חצורה לבית דין ללמדתהתין פי אלקאהרה ...
... המקבל עליו בקנין לילך ולדון עם בעל דינו בדין הגוים ...

כך ראינו שאין הדבר תלוי אם דיניהם דין ואם לאו גמ"מ, No. 179:
שודאי אין דיניהם דין דלא דיני וקטלי ואפי' הן לעצמן וכ"ש ישראל,
... וסומכין על עדיהם והם כולם עדי שקר אשר פיהם דבר שוא ...

same disparaging opinion about the Arab courts was prevalent among the Jews of Ḳairowan and North Africa (ה"ג, Nos. 237, 278, and 324). A still more scathing criticism we find in another responsum by a Spanish scholar of that time (נמו"ט, No. 199, see Müller, note 1). The Rabbi maintains that, firstly, the Arabic documents of the courts are unreliable because by adding or omitting one dot over or beneath a letter in the Arabic script the whole meaning of a sentence can be changed. Secondly, the courts accept witnesses without knowing them, and rely on identifications the witnesses give about themselves.²¹⁰ Müller (note 6 to this responsum) is surprised at this procedure as being against the Muhammedan law, but we shall see later on that R. Hai in Pumbedita knew that in some parts of the Muslim empire such a scandalous administration of justice was practised (see also Müller, *Die Responsen der spanischen Lehrer des 10^{ten} Jahrhunderts*, p. 6 in the seventh report of the Berlin *Lehranstalt*, 1889).

Entirely different was the state of affairs in Babylon. There a whole system of jurisdiction was devised and brought to a high level of efficiency by the legal school which had as its founder the famous lawyer Abū Ḥanīfa (d. 766 C. E., see Kremer, *ibid.*, I, 491–7 and 504). This high standard seems to have been maintained for several centuries. The Gaon Hai testifies that in his time the courts of Bagdad and of other large cities excelled themselves in their care exhibited in administering justice. Great care was shown in accepting witnesses, and therefore

... שכתביהן אפשר להודיין הן בנקודה אחת מחליפין את
הענין ... ועוד שאין מודקקין בעדותם שמעמידים אדם שאין מכירים
ואומר אני פלוני בר פלוני וחותמין על דברו ואע"פ שאיננו הוא אלא
... אחר ויש בכתביהן שאר דברים שאי אפשר לפרשן ...

deeds of property drawn up at these courts were accepted as legal by the court of the Gaon. Yet R. Hai knew that there were 'villages and distant places', where the courts did not come up to that standard of perfection, and accordingly documents from such courts found no legal recognition in the opinion of the Jewish courts.²¹¹ We thus see the Jewish scholars estimating the Muslim courts not from the point of view of fanatics, but of lawyers primarily concerned about fair and upright administration of justice. That the Jewish authorities themselves solicited the co-operation of the secular authorities, the so-called *בי דואר*, is apparent from several responsa. In monetary lawsuits, whenever the Bêt-Din or the communal leaders found that their powers of coercion were inadequate, they used to secure the help of the secular arm. Correspondents from Ḳairowan (ג"ה, No. 233 in the collection of responsa to Ḳairowan, Nos. 230–64) inquire of the Gaon with reference to the Jew *A*, who was sentenced by the Bêt-Din to pay to *B* a sum of money, but does not obey the ruling of the Bêt-Din. Those witnesses that were accepted

²¹¹ ג"ה, No. 278 (in all probability by Hai since ג"ה, No. 239, a similar responsum, is by him): הכין חזינא כי המדינה הוואת שאנו עבשיו בתוכה: והיא בגדאד אין מקבלין בערכאות של גוים אלא עדים פקחים וגדולים ועשירים שלא עלה עליהן גזל ולא דברי שקר ולא דברי שוא ושמצוינין בדתם ונקראין אלמערדלין כגון אלו אם העידו על שטר מכר או הלוואה וסידרו את העדות בערכאות שלהן וקיבלן השופט אף אנו נמי דנין באותו שטר וכשר הוא אצלנו. וכן מנהגנו עבשיו מעשים בכל יום. והמדינות האחרות הגדולות שבבבל יש בהן מי שעירי הגוים המוצבין לעדות כך הן מצוינין בדתן ומרבין להזהר בדבר שוא וכל שכן מדברי שקר . . . ויש מקומות וכפרים ומרחקים שאינן כך אלא שקרנות וכוננות ידועה בהן וגומלין הן ונהנין מעדיותיהן כגון אלו אין אנו מכשירין שטרותיהן . . . Cp. also ג"ה, No. 324, probably written in 1016 by Hai to Ḳabes, see Harkavy, *ibid.*, p. 156, note 8; ג"ה, No. 233; ש"צ, 84 b, No. 4; ג"ה, No. 51.

by the Jewish court will not be accepted by the Arabic judges, and the question arises whether influential people of the Jewish community may go to the Muslim court and give evidence on the strength of the sentence of the Bêt-Din, in order that justice should be carried out by the help of the secular authorities. The Gaon allows this procedure, especially if there are indications that the defendant *B* is going to escape. A similar responsum we have in ש"צ, 84 b, No. 4 (assigned by the 'Ittur to Sherira). In the place of the correspondents there was no fixed Bêt-Din, but the communal leaders used to settle disputes arising between Jews. If their ruling is not obeyed, the Gaon decides, the help of the secular authorities may be procured.²¹² In a Genizah Fragment (published by Schechter in Berliner's *Festschrift*, Hebrew Part, 112) we find the Dayan Elijah complaining that 'from the majority of our congregation it is difficult to recover anything unjustly appropriated, unless through the power of the ruler'.²¹³ This letter was hardly sent from Egypt, as Schechter maintains; ll. 18–19 show that the writer only passed through Egypt (cp. also Poznański, *REJ*, XLVII, 139, and *Babyl. Geon.*, 99, note 1). Perhaps this Dayan held his office in Damascus where there existed a Ḳaraite community. Probably Sahl b. Maṣliaḥ had this practice of the Rabbanite authorities in mind when he accuses them

ובמקום שאין הגולן חושש לסופרי ישראל גובין החוב בנזים ואל²¹²
 תאבד. Cp. further 'Gaonic Decrees and Documents' (published by Aptowitzer, *JQR.*, N. S., vol. IV, p. 27); No. V (אדרכתא) . . . וכל בר : (אדרכתא)
 ישראל דחזי ליה לאדרכתא אית ליה רשותא למיזל אסתורי קמי אומות
 מי שהזמיננהו (מ'שרים, I, 12 (beginning) See also R. Yeruham.
 ומסרב לבא לפני דייני ישראל יכול להביאו בערכאות של גוים כך דקדק
 'ר. פלמוי נאון וכו'.

ורוב בני עמנו קשים מלהוציא גולה מתחת ידם כ"א בכח הוד מלכותו²¹³

of enlisting the help of the secular power (ומתגדלים ומתנאים) לקומי, ומתגברים עליהם בנידוי ובהרם ובשלטי הנברים, in Pinsker, 31, bottom).²¹⁴ From some community the complaint came to R. Hai that there were refractory people who did not listen to the Bêt-Din and committed evil deeds, while 'the government was a grievous one' and afforded no assistance to the communal leaders.²¹⁵ The whole problem of the power of the Jewish courts and the communal leaders will be discussed fully in the chapter next but one.

(d) We shall now discuss the material which the responsa furnish concerning Jewish masters and their slaves. It is generally assumed that the Jews of the Gaonic period were very active in slave-trade (see Heyd, *Geschichte d. Levante-handels im Mittelalter*, I, 139, and Dr. Abrahams, *Jewish Life in the Middle Ages*, 96 ff.). It is noteworthy that of the considerable number of responsa that deal with slaves in the service of Jews, only a few refer to slave-trade as a trade carried on by Jews. R. Naḥshon of Sura (874-82) was asked by some community about slave-trade. 'In our place people are used to buy slaves cheaply, and there is no better trade than this. May we sell them at once without initiating them into Jewish rites, because only one out of a hundred abide in his newly accepted religion, and we get great profit from this trade?'²¹⁶ The Gaon

²¹⁴ Yet Benjamin Nahavendi also advocates this practice : ואם לא יבוא לאחר אלה ולא יקבל דין שדי ולא ישוב מוסרים אותו לערכאות המלכות (משאת בנימן) ומעידים עליו להעמיד עליו דין שדי (ed. Firkovitz, 2 a bottom).

²¹⁵ . . . אית גבן אלימי דלא צייתין לבי דינא וקעבדין : גמ"מ No. 42 . . . עובדין בישין חמן קשה הוא ומלכות עזה וקשה היא ולא יכלנא למעבד . . . בהו דינא . . .

וששאלתם רגילין במקומנו לקנות עבדים בוול ואין : ש"צ No. 27, 26 b.

permitted this trade. Had the Talmudic law (Yebamot 48 b) been carried out to its full extent, slave-trade could not have been carried on by Jews. This Talmudic law requires that every Jew should have his male slaves circumcised and his female slaves initiated into the rites of Judaism. With their acceptance of Judaism such slaves must not be sold any more to non-Jews. Some Geonim seem to have been very strict about these laws. Thus R. 'Amram (צ"ש, 25 b, No. 18) does not allow a slave to be retained even for a month unless this slave consents to become a Jew. Only circumcision is allowed to be postponed for a year (based on Yebam. 48 b). According to the Talmud (Giṭṭin 44 a) a Jew who sold his slaves that had accepted Judaism to non-Jews was to be fined by the Bêt-Din ten times the value of the slaves. This fine which was spent on charity we find imposed by the Geonim (צ"ש, 26 a, No. 19) by R. Kohen-Şedek (either of Sura 845 or of Pumbedita 926) ; 27 b, No. 37, by R. Natronai ; see צ"ש, 23 a, No. 3, end). The Catholici in 'Irâk likewise excommunicated Christian masters that sold their Christian slaves to members of another religion (Jesubarnum, § 65, and Timotheos, § 77, in Sachau, *op. cit.*). But it seems that the Geonim had difficulties in enforcing all these laws amongst the people. Slave-trade was lucrative in those times, and the temptation was great. Several Jewish masters disliked to circumcise their slaves, because they would not be able to sell them any more to non-Jews. R. Hai in a responsum wonders that there should be a Jew

להם סחורה כמותה מהו למכרן לאחר שאין עומדין בדין ישראל כלל אלא אחד ממאה ויש לנו רייוח הרבה. Other references to slave-trade as carried on by Jews are perhaps to be found in צ"ש, 81 b, No. 17 ; *Geon.*, II, 150 (ק"ח) ; ג"ה, No. 435. See also צ"ש, 27 b, No. 38, by R. Natronai.

whose slave desires to become a Jew, but whose master prevents him (see צ"ש, 26 a, Nos. 20 and 21 (*Einleit.*, 15, note) and *Geon.*, II, 197). Thus, in spite of the opposition of the Geonim, slave-trade apparently flourished among Jews. The Arabic geographer Ibn Kordâdbeh, in the middle of the ninth century, in his famous report (published first by Sprenger, *Journal of the Asiatic Society of Bengal*, vol. 14, Part 2, 1844, 519 ff., discussed in the next chapter) tells of Jewish business men that travelled from the country of the Franks so far as to China, and who on their way back used to bring slaves, both male and female, and eunuchs to the Occident. It should be pointed out that Jews themselves were prohibited by a Talmudic law to castrate their slaves, and this could be done only by non-Jews, as we learn from a Gaonic responsum.²¹⁷

In Jewish households slaves were as frequent as in any non-Jewish household. In Arabic-speaking countries it appears that Jews were allowed to keep only Christian slaves but not Muhammedan. An interesting question from Tlemsen sent to Hai shows us how Jews obtained slaves for their households. R. Hai's correspondents write that there are places where Jews find only Christian female slaves for sale. These a Jew is allowed to acquire legally : Muhammedan slaves he can obtain only secretly and at great danger. Now some of these Christian slave-girls accept Judaism at once, others ask for some time for consideration, but the majority refuse to accept Judaism. The correspondents describe how a Jewish household without a female slave is in great trouble, since the wife

ישראל יאמר לגוי שיש לו עבדים סרסם ואני אקנה : No. 76, ג"ו 217 . . . ממך מותר ואין בכך כלום וזיתר נמור הוא . . . Cp. צ"ש, 23 a, No. 3 : . . . וישראל שלקח עבד סרים.

or the daughters of the Jew would have to fetch water from the wells, wash the linen by the side of the river, and go to the baker's. They will thus come into contact with non-Jewish and profligate slaves and be exposed to dangers and disgrace. The Gaon permits these Jews to retain their female slaves, in spite of their not accepting the rites of Judaism. He only enjoined the Jewish masters not to employ their slaves on the Sabbath.²¹⁸ This interesting responsum, besides giving us a glimpse of the social conditions of those times, shows in the first instance that Jews were not allowed to have Muhammedan slaves. This is further corroborated by ח"ג, Nos. 12 and 13 (probably by R. Paltoi of Pumbedita, 842-58) especially according to Halberstamm's MS. (see *Einleit.*, 27, note 3). A slave told his master 'Either liberate my son or I shall become a convert', i.e. he would become a Muslim and thus *eo ipso* liberate himself (ובשביל עבר שאמר לרבו שחרר את בני ואי לא אשתמר). We learn further from the above question from Tlemsen to R. Hai that even in Muhammedan countries Christian slaves could not be forced to become Jews. This is corroborated by several responsa. Especially

²¹⁸ ש"צ, 23 b, No. 6 = ג"ה, No. 431: מקומות שאין היהודים מוצאין והן במקומנו מצויות והגוים מותר להם בדינם שפחות לקנות אלא מצריות והן במקומנו מצויות והגוים מותר להם בדינם להניח את היהודים לקנות אבל חוץ מהן אין מניחין אותן לקנות אלא בסתר ובסכנה. ויש מהן שמתניירות לאלתר, ויש מהן שמתניירות לאחר זמן, ויש שאינה רוצה לחזור כלל וישראל השרויין באותן מקומות נצרכין להם ביותר שלא יצטרכו בניו ובנותיו או אשתו להביא מים על כתפיהן מן המעיינות ולצאת לפורני עם שפחות גוים ופרוצין ונמצאות ישראל ש"צ, where in the bad Salonica print of the ש"צ, באות בבזיון ובסכנה נוצריות. נוצריות really stands for מצריות. (Examine the word מנודה in ש"צ, 20 b., No. 13). In ש"צ 2b, No. 17 it is clearly printed נצירות. See further ג"ה, p. 224, note 10. The abbreviated responsum in ג"ה, No. 11, has also שפחות נצירות.

male slaves could not be forced to become circumcised even after the lapse of twelve months given for consideration (cp. above, p. 145, and ש"צ, 23 a, No. 1). But as regards female slaves who required only the ritual bath for their initiation into the Jewish rites we find cases of forcible action on the part of the Jewish masters. Sherira (ש"צ, 25 b, No. 16, שפחה נוצרית שלא קבלה על עצמה להכנס והטבילה, בעל כרחא) decides rightly that such an enforced ritual bath has no effect, and the slave remains a Christian anyhow. But Sar Shalom (of Sura, 849-53) is of a different opinion (ש"צ, 27 a, No. 32 = ש"ח, No. 255 = ה"פ, No. 16). It should be kept in mind that for a Jewish household, a slave that did not accept the Jewish rites was of no use. The slave could neither cook, nor prepare the food, nor touch the Jew's wine, nor perform other domestic duties (see ש"צ, 23 a, No. 3; ש"ח, No. 254 = ה"פ, No. 15). In some places Jewish masters were afraid that slaves, who did not accept Judaism, would be used by their non-Jewish enemies as a tool for denunciation and slander.²¹⁹

On the whole we may assume that the slaves were treated humanely in Jewish households. The very fact that they became half-proselytes helped to raise their status and to elicit sympathy from their employers. Thus they were regarded almost as members of the family. In ש"צ, 27 a, No. 3 (by R. Şemah = *Geon.*, II, 183, l. 9) there is mentioned the case of a slave, who pretended to have adopted Judaism, in order not to be sold to non-Jews. We find further cases of masters having their slaves or the

²¹⁹ ה"ג, No. 431 (end), and No. 11: ובמקום שהן מתייראין מן העבדים : ישראל למבקשי נפשם ודמם ויבואו לידי סכנות שלא נתניירו שלא יגלו סוד ישראל למבקשי נפשם ודמם ויבואו לידי סכנות. This again shows us the attitude of the populace in Arabic countries towards the Jews.

children of their slaves, instructed in the Bible (צ"ש, 26 b, No. 29, by Sherira; 27 b, No. 36, by R. Naḥshon (see *Einleit.*, 14, note); *Geon.*, II, 83-4). But it seems that the Geonim disliked this practice. Sometimes slaves were entrusted with the entire management of their masters' affairs (see צ"ש, 26 b, No. 29; 73 b, No. 10, by R. Natronai (*Einleit.*, 14, note)=ג"י, No. 79; ק"י, No. 50, which Müller, *Einleit.*, 25, assigns to R. Meshullam or R. Gershon, hence, a case of slaves in Christian countries). The Roman custom of manumitting a favourite slave before or immediately after the death of his master, which we find in vogue among the Jews in the Talmudic times, was also continued in the period of the Geonim. From several responsa we learn that the practice was for a man to liberate before his death his favourite slave. Likewise the death of her mistress would result in a female slave regaining her liberty (see צ"ש, 27 a, No. 31; *Geon.*, II, 83). Female slaves were frequently included in the dowries given to daughters on their marriage (צ"ש, 45 b, No. 7, by Samuel b. Ḥofni; 54 b, No. 8, probably by Sherira; גמ"מ, No. 220). Generally we find the Bêt-Din looking after the interests of the slaves and affording them protection. Following the Talmudic maxims, the Geonim would force, for example, the heirs of a man, that declared his slaves to be free after his death, to carry out the will of the testator (see צ"ש, 26 b, No. 25; 25 a, No. 14; 27 b, No. 36, end). Once R. Ṣadoḳ (of Sura, 823-5) even forced the son of the Exilarch to comply with the Talmudic rule in such a case, and grant freedom to the slaves of his testator, a late member of the Exilarch's family.²²⁰ The Christian eccle-

²²⁰ *Geon.*, II, 83: כך היה מעשה באחר מן בני נשיאה ושמו נתן בר שריראר והיו לו עבד ושפחה וצוה ואמר פלוני עבדי ופלוני שפחתי לא

siastical authorities in Babylon likewise forced the heirs, by excommunicating them from the Church, to fulfil the wishes of their testator and grant freedom to his slaves that had been declared free (so Ḥenânîsô, V; Jesubarnum, § 66 in Sachau, *op. cit.*). Another case R. Naḥshon mentions in a responsum in צ"ש, 27 b, No. 33: 'A slave swore not to serve his master.' Seeing the great binding force of the oath with Jews, the slave wanted to gain his liberty in this manner. But the Gaon decided to take no heed of the slave's oath. On the other hand we find the Bêtdin imposing flagellation on a slave because he assaulted certain people (צ"ש, 29 b, No. 4, probably by Sar Shalom, see *Einleit.*, 14, note). If a slave of a Jew did not observe the rites of Judaism into which he was initiated, his master was allowed to sell him to non-Jews. We have the evidence of the responsa that the greatest majority of the slaves in the service of Jews did not observe the Jewish rites (see צ"ש, 23 a, No. 3, but cf. גמ"מ, No. 49; ג"ה, Nos. 111 and 431, by Sherira as regards the Sabbath; צ"ש, 27 a, No. 30, by R. Şemah). Likewise if a Jewish master was discovered committing immorality with his female slave, the master was severely punished and the slave sold to non-Jews (צ"ש, 2 b, No. 17, cp. 25 a, Nos. 13 and 15).

All the responsa discussed in this paragraph, when taken together, acquaint us with the position of the slaves in the service of Jews. However great an evil slavery was in those times, it should not be overlooked that in Jewish

ימליכיהם אחד מן בעדי (לא ימליכיהם אחד מן בעדי) ואתא לקמיה אדונינו מאור עינינו מר רב צדוק נאון . . . וכפייה ליורש דנתן שמעיה בריה דיצחק ריש גלותא וכתב להון גיטא דחירותא. A similar case we have in the Decisions of the Catholicos Ḥenânîsô, No. VII (Sachau, *ibid.*, p. 14). See Aptowitzer, *ibid.*, 12 ff.

service the slaves enjoyed perfect rest on the Sabbath and the Jewish Festivals, just as their masters. Further, their having adopted Judaism made their lot more tolerable. They were therefore treated with more consideration. In נ"ק, No. 118, the Rabbi, probably Ḳalonymos of Lucca, writes that the well-known prayer for the dead, the Ḳaddish, should also be recited for slaves that observed the Jewish rites (ואפילו על העבדים שמשמרים את האמונה ואומרים קדיש). In another responsum (ש"צ, 23 b, No. 5) we find the case of a slave whom his Jewish master sold to a non-Jew, and who on gaining his freedom from his second master desires to remain henceforth a Jew. Finally, the Jewish master was personally free from the blame of the cruelty of castrating his slaves (see above, p. 146).²²¹

²²¹ Yet Dozy (*Geschichte der Mauren in Spanien*, II, 38) writes, 'The Jews, who speculated on the misery of the nations, bought children of both sexes and brought them to ports where Greek and Venetian ships called to transport them to the Saracens. Other slaves, destined for attendance at the harems, came from France where there existed large establishments for eunuchs managed by Jews'. As Harkawy (הציפה להמניד, 1877, 219, 4) rightly remarks, Jew-hatred rather than the actual facts is the reason for the above statement as well as for the assertion of the Arab writer Muhammad al-Muḳaddasi al-Bashari that the slaves from the Slav countries are brought to Baganah (near Almeria in southern Spain, see above, VII, 486, note 32) whose inhabitants are Jews and who castrate them there.

(To be continued.)